UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/824,830	04/03/2001	Jonathan Chu	Cybertel, Inc. 1	1189

26345 7590 01/18/2005	EXAMINER
GIBBONS, DEL DEO, DOLAN, GRIFFINGER & VECCHIONE	VINCENT, DAVID ROBERT

1 RIVERFRONT PLAZA	ART UNIT	PAPER NUMBER
NEWARK, NJ 07102-5497	2661	

DATE MAILED: 01/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/824,830	CHU ET AL.
	Examiner	Art Unit	
	David R Vincent	2661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-21* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) *1-6,8-14,17 and 18* is/are rejected.

7)☒ Claim(s) *7,15,16 and 19-21* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

Claim Objections

1.   Claim 14 is objected to because of the following

informalities: For example:

Claim 14 specifies Delete>Marked for Delete>Read>Unread,

and most likely the applicant meant to use commas, e.g.,

"Delete, Marked for Delete, Read, Unread". Appropriate

correction is required.

Claim Rejections - 35 USC § 102

2.   The following is a quotation of the appropriate paragraphs

of 35 U.S.C. 102 that form the basis for the rejections under

this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American

Inventors Protection Act of 1999 (AIPA) and the Intellectual

Property and High Technology Technical Amendments Act of 2002 do

not apply when the reference is a U.S. patent resulting directly

or indirectly from an international application filed before

November 29, 2000. Therefore, the prior art date of the

reference is determined under 35 U.S.C. 102(e) prior to the

amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3.   Claims 1-3, and 5-6 are rejected under 35 U.S.C. 102(e) as

being anticipated by Rigaldies (US 6,792,085) in view of two

dictionaries. One being the Computer Dictionary and the other

being the Telecom Dictionary.

As shown in Figs. 1-24, especially Figs. 1, 16B, or 24,

Rigaldies discloses a communication system (Fig. 1 and

respective disclosure) comprising a message engine (e.g., 101)

adapted to handle differentiated message data including a

plurality of message types (e.g., email, voice mail, Fig. 1)

with assignable attributes (e.g., read, delete, mark for delete,

unread, Figs. 1-24; col. 3, lines 3-16; col. 10, lines 1-8;

attributes, col. 10, lines 30-44; col. 11, lines 33-45; col. 17,

lines 1-14; col. 20, lines 19-53), at least one access (various

clients or work stations, e.g., Fig. 1; col. 10, lines 25-45;

col. 9, lines 55-60; telephone client, col. 11, lines 3-9; col.

3, lines 26-37; col. 4, lines 7-22), repositories (various

databases or memory locations, e.g., Fig. 1; col. 9, lines 16-

27; message store 220, col. 10, lines 30-44; col. 4, lines 7-

22), synchronization engine (col. 2, lines 51-65; col. 3, lines

3-37; col. 4, lines 35-39; col. 10, lines 45-53; col. 11, lines

10-33; col. 16, lines 1-6), access device includes a trigger

(user clicks on a tab in a program or confirms a deletion, col.

4, lines 7-22; col. 17, lines 21-51; col. 17, line 65-col. 18,

line 9), retrieval agent (lines of code in various access device, subroutine responsible for initiating connection and retrieving messages, col. 4, lines 7-22), a compare agent (col. 9, lines 46-60), lists (deletion records, col. 11, lines 51-61; inherent viewable lists using an email program, col. 16, lines 21-33; delete record, col. 17, lines 15-51; message status, col. 22, lines 51-56), synch engine poll at least one repository (database, memory in access device or memory in email/voicemail server) for a change (col. 27, lines 34-44), as specified in claims 1-6.

Regarding the term synchronization, the applied art refers to various forms of synchronization throughout the entire patent (cols. 1-28). The examiner has only referred to some of the more important areas rather than listing cols. 1-28 for all references to synchronization. However, in this case, all 28 columns are applicable.

Regarding the term "retrieval agent" this term is not further defined and reads on e.g., higher layer programs in the OSI model, e.g., SMTP programs (col. 16, lines 21-33) or any subroutine responsible for initiating the connection and retrieving the various messages. Furthermore, the term "agent" refers to an abstraction that can me implemented in any way (see e.g., the Telecom Dictionary pgs 59-60).

Regarding the term "engine", this term is not further define and reads on "a portion of a program" or lines of code running in a computer/CPU, as in e.g., a subroutine (see e.g., the Computer Dictionary pg. 147).

Regarding the term "delete agent", this term is not further defined and reads on the subroutine inside an email program which handles allowing memory space that holds messages marked for delete to be written over. Furthermore, the term "agent" refers to an abstraction that can me implemented in any way.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 4, 8-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Rigaldies and the two dictionaries, as set forth above in view of Stallings.

Rigaldies also discloses a mail server (e.g., 300, col. 7, lines 29-40), a client (e.g., Fig. 1; col. 10, lines 25-45; col. 9, lines 55-60; telephone client, col. 11, lines 3-9; col. 3,

lines 26-37; col. 4, lines 7-22), a session server (reads on the

session layer or layer-5 or programs running on layer-5 of the

OSI model, see Stallings, pgs. 512-512, 519, or 525, see below),

a PSTN server (voice mail server, 200, col. 11, lines 18-33;

col. 12, lines 64-67), SMPT agent (Fig. 1; col. 14, lines 12-23,

col. 14, line 66-col. 15, line 5), message store database

(various databases or memory locations, e.g., Fig. 1; col. 9,

lines 16-27; message store 220, col. 10, lines 30-44; col. 4,

lines 7-22), synchronizing server (various computers used in

performing synchronizing, cols. 1-28, especially col. 2, lines

51-65; col. 3, lines 3-37; col. 4, lines 35-39; col. 10, lines

45-53; col. 11, lines 10-33; col. 16, lines 1-6) delete agent

(part of a program that deletes a message, see above), retrieve

agent (part of program that retrieves a file, col. 16, lines 55-

58; see "agent" above and Stallings: Table 15.4, pg. 515),

assigning attributes (e.g., read, delete, mark for delete,

unread, col. 11, lines 33-45; Figs. 1-24; col. 3, lines 3-16;

col. 10, lines 1-8; attributes, col. 10, lines 30-44; col. 11,

lines 33-45; col. 17, lines 1-14; col. 20, lines 19-53), as

specified in claims 8, 10-14. However, Rigaldies fails to

particularly call for a session server and comparing lists.

Stallings teaches that a session server (pgs. 512-515, 518,

524-525) reads on the various devices (such as the service

providers used for the remote/wireless/mobile worker, col. 2,

lines 54-56; col. 4, lines 7-23) being used in Rigaldies for use

with SMTP and/or email programs and the various CPUs (in e.g.,

the access points or base stations etc.) act as session servers

using Stallings definition of the term session. Therefore

Stallings is being used more as a dictionary. However, it would

have been obvious to apply the well known teachings of the OSI

model in Stallings because that would add to the

interoperability among other devices.

Regarding the term "list", this term is not further defined

and reads on maintaining items in a memory since a list in

computer terminology does not mean an actual list is generated

and output onto paper. Email programs maintain lists of mail

under different categories such as read, new/inbox,

deleted/trash, marked for delete/delete tab. Even those "lists"

although viewable, still amount to items stored in various

memory locations.

However, Huang teaches a plurality of lists (Figs. 2-7B and

respective disclosure), and using the Internet (Figs. 9-10 and

respective disclosure) in the context of synchronizing messages

(Figs. 16-18 or 21-22; section 146-151).

It would have been obvious to compare lists because

Rigaldies discloses maintaining a history of messages in order

to only process new messages (col. 9, lines 52-60), monitoring

any change in status (col. 10, lines 1-9), a wide variety of

synchronizing (col. 11, lines 10-17), and voice mail and agent

updating each other (comparing their respective lists, col. 16,

lines 1-6), and comparing lists essentially reads on voice mail

and email data bases getting synchronized with each other so

that there is no duplication and so that the client sees the

most up to date messages.

It would have been obvious to use the Internet because

Rigaldies discloses remote/wireless/mobile workers, col. 2,

lines 54-56; col. 4, lines 7-23), and it is notoriously well

known to send messages over the Internet.

6.   Claims 7, 15-16, and 19-21 are objected to as being

dependent upon a rejected base claim, but would be allowable if

rewritten in independent form including all of the limitations

of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier

communications from the examiner should be directed to David R

Vincent whose telephone number is 571 272 3080. The examiner

can normally be reached on M-TH.

If attempts to reach the examiner by telephone are

unsuccessful, the examiner's supervisor, Kenneth Vanderpuye can

be reached on 571 272 3078. The fax phone number for the

organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

David R Vincent
Primary Examiner
Art Unit 2661

January 13, 2005